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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: DISAPPEARANCES AND SUMMARY EXECUTION

Written statement submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 December 1999]

GE.00-10735 (E)

Extrajudicial killings in Asia

1. In India, 17 persons lost their lives in Tirunelveli Town, south Tamil Nadu, in July 1999. This was due to brutal police attack. According to reports, the deaths were due to injuries suffered in brutal police beatings. The victims were Dalits who were participants in a procession demanding a solution to a wage dispute and the release of some workers who were in jail. The police used "lathi" and charged and chased them into the nearby river. The more serious injuries were alleged to have been caused when the police attacked the swimmers on the head while they were trying to reach the river banks. The human rights group inquiring into the incident found an enormous amount of evidence including press reports, documents, statements, photographs and video coverage

2. Another type of extrajudicial killing that has been taking place in India is the "encounter" killing. The victims of such killings are usually persons who have been arrested for committing serious crimes. The victim is then alleged to have tried to escape from police custody and in the process was shot by the police. Human rights groups which have collected evidence of these cases often have found evidence to question the stories of alleged attempted escapes. Owing to the increase of crime, a mass mood of insecurity has developed, particularly in the major towns. In this situation any form of suppression of crime, even by extrajudicial means, is accepted by the community. One of the towns where large numbers of encounter killings have taken place is Mumbai (earlier known as Bombay).

3. In Sri Lanka, extrajudicial killings take many forms. There are over 30,000 cases of officially recognized disappearances. A commission inquiring into cases of disappearances has stated that disappearance in Sri Lanka is simply another name for killing after arrest. Besides the officially recognized disappearances of the past, there are also large numbers of disappearances taking place in the areas where armed conflict is going on. This is in the north and in the east. There are also many instances where alleged terrorists taken into custody are later found to have been killed. Besides these, there are reports from many parts of the country of alleged criminals being found dead after arrest. As in the case of India, the explanation is often that they have tried to escape or have resisted arrest. However, the public perception is that the disposal of persons who are alleged to be well-known criminals, is taking place in this manner as a way of eliminating criminals.

4. There are reports from Nepal of killings of persons alleged to be Maoist insurgents, or their sympathizers and family members. These persons are often arrested and thereafter go missing or are found dead. Such killings are the result of harsh measures adopted to suppress rebel movements. In recent years, the incidents of disappearance from custody and extrajudicial killings have become serious problems in Nepal. The Supreme Court of Nepal has issued a few habeas corpus orders, but these have not been complied to by the State mechanism. Independence of the judiciary and the rule of law are therefore seriously jeopardized. Besides this there are also reports of incidents which are similar to the encounter killings in Sri Lanka and Nepal.

5. There are also reports from the Philippines of killings after arrests. These are also killings of alleged criminals and the explanations given are similar to the explanations of the encounter killings given in the countries mentioned above.

6. Indonesia is another country where there are many instances of killings of people alleged to be rebels. Even after the fall of the Suharto regime there have been many instances where human rights NGOs have investigated the extrajudicial killings of rebels.

7. Extrajudicial killings are a matter of serious concern. A matter that needs to receive greater international attention is the justification of the killing of persons after arrest, either on the grounds that they belong to rebel movements or that they are alleged to be serious criminals. There seems to be a tacit agreement among some law enforcement agencies that when it comes to serious crimes the judicial process of fair trial can be dispensed with and that immediate actions can be taken on their own. Given the large-scale happenings on this score, the attention of the international community needs to be very much concentrated on this matter. The abuse of the international doctrines against terrorists by the law enforcement agencies so as to suspend all the legal rights of persons alleged to be terrorists should be condemned by the international forums. This also applies to anti-crime drives. The anti-crime drives which lead to the justification of the suspension of judicial processes could have extremely serious effects on the society as a whole and lead to the breakdown of law and order altogether.